International Seabed Authority ISBA/24/C/13

# Council

Distr.: General
29 May 2018

Original: English

**Twenty-fourth session**
Council session, part II
Kingston, 16–20 July 2018
Agenda item 8
**Report of the Secretary-General on the status of national legislation relating to deep seabed mining and related matters, including a comparative study of existing national legislation**

## Laws, regulations and administrative measures adopted by sponsoring States and other members of the International Seabed Authority with respect to the activities in the Area, and related matters, including a comparative study of existing national legislation

### Report of the Secretary-General

1. At the seventeenth session of the International Seabed Authority, in 2011, the Council of the Authority requested the Secretary-General to prepare a report on the laws, regulations and administrative measures adopted by sponsoring States and other members of the Authority with respect to the activities in the Area, and invited sponsoring States and other members of the Authority, as appropriate, to provide information on or the texts of relevant national laws, regulations and administrative measures to the secretariat (ISBA/17/C/20, para. 3).

2. The Secretary-General submitted such a report to the Council at the eighteenth session of the Authority, in 2012 (ISBA/18/C/8 and ISBA/18/C/8/Add.1). After consideration of the report, the Council made the matter a standing item on its agenda and requested the Secretary-General to prepare an updated report annually for consideration by the Council. Those subsequent reports are contained in documents ISBA/18/C/8 and ISBA/18/C/8/Add.1, ISBA/19/C/12, ISBA/20/C/11 and ISBA/20/C/11/Add.1, ISBA/21/C/7, ISBA/22/C/8, and ISBA/23/C/6 The updates are also incorporated into an online database (www.isa.org.jm/national-legislation-database).

3. At the twenty-third session of the Authority, in 2017, the Assembly of the Authority adopted a decision relating to the final report on the first periodic review of the international regime of the Area pursuant to article 154 of the United Nations Convention on the Law of the Sea, in which it invited States parties sponsoring activities in the Area, if they had not already done so, to review their respective national legislation to control activities by entities with whom they had entered into



Please recycle

contracts for exploration, drawing on the advisory opinion of the Seabed Disputes Chamber of the International Tribunal for the Law of the Sea (ISBA/23/A/13, sect. B). In the same decision, the Assembly requested the Secretary-General to continually update, as necessary, the compilation of the relevant national laws, regulations and administrative measures of sponsoring States with respect to activities in the Area (ibid., sect. E, para. 2).

4. Since the most recent report on the subject, the Netherlands indicated in a note verbale dated 26 June 2017 that no national laws, regulations and administrative measures with respect to activities in the Area were in force and that measures were under development to enable the sponsoring of activities in the Area. Brazil submitted a note verbale dated 11 August 2017 containing information on its legislation on research and exploitation of seabed resources.

5. In a note verbale dated 26 March 2018, the secretariat reiterated its invitation to sponsoring States and other members of the Authority to submit to the secretariat the texts of relevant national laws, regulations and administrative measures or related information. On 19 April 2018, Tuvalu submitted a note verbale with the text of its national law, the Tuvalu Seabed Minerals Act, 2014. On 26 April 2018, China submitted a note verbale with three administrative regulations issued by the State Oceanic Administration, on licensing for exploration and exploitation activities in the Area, sample management and information management, respectively. On 3 May 2018, Montenegro provided legislation relating to the law of the sea. In a note verbale dated 28 May 2018 from the Permanent Mission of the Russian Federation to the International Seabed Authority, the secretariat was informed that activities for the development of mineral resources in the Area were now regulated in accordance with the presidential decree No. 2099 of 22 November 1994 on the activities of Russian physical and legal entities related to the exploration and development of mineral resources of the seabed outside the continental shelf and government decree No. 410 of 25 April 1995 on the procedure of activities of Russian physical and legal entities related to the development of mineral resources of the seabed outside the continental shelf. In the same note verbale, the secretariat was also informed that the Russian ministries and departments were conducting an analysis of existing regulations and international treaties implemented by the Russian Federation and other member States of the Authority to further develop a legal and regulatory framework with respect to activities in the Area. In a note verbale dated 5 June 2018, the Permanent Mission of Mexico to the International Seabed Authority conveyed the comments and updated information submitted by the Secretariat of Environment and Natural Resources of Mexico, the Secretariat of Economy of Mexico and the Mexican Geological Service.

6. As at 5 June 2018, a total of 31 States had provided information on or the texts of relevant national legislation, namely: Belgium, Brazil, China, Cook Islands, Cuba, Czechia, Dominican Republic, Fiji, France, Georgia, Germany, Guyana, India, Japan, Kiribati, Mexico, Montenegro, Nauru, Netherlands, New Zealand, Nigeria, Niue, Oman, Republic of Korea, Russian Federation, Singapore, Tonga, Tuvalu, United Kingdom of Great Britain and Northern Ireland, United States of America and Zambia. Submissions had also been received from the Pacific Community. A list of national legislation and related information is annexed to the present report. Further information on and the texts of national laws, regulations and administrative measures submitted by the aforementioned member and observer States of the Authority are available from the Authority's online database. The secretariat will continue to update the online database as new information is received.

7. In addition, in its decision relating to the final report on the first periodic review of the international regime of the Area pursuant to article 154 of the Convention, the Assembly requested the Secretary-General to provide the Council with a comparative study of the existing national legislation with a view to deriving common elements

therefrom before the end of 2018 (ISBA/23/A/13, sect. E, para. 3). In response, a comparative study is ongoing and its completion is due by the end of 2018. It will be submitted for consideration by the Council in 2019.

8. The Council is invited to take note of the present report.

# Annex

## Legislation and information submitted by States and regional organizations

### I. General

United Nations Convention on the Law of the Sea, concluded at Montego Bay on 10 December 1982. Entered into force on 16 November 1994. United Nations *Treaty Series*, vol. 1833, No. 31363, p. 397; 21 *International Legal Materials* 1261 (1982).

Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982. Entered into force on 28 July 1994. General Assembly resolution 48/263; 33 *International Legal Materials* 1309 (1994); United Nations *Treaty Series*, vol. 1836, No. 31364, p. 42.

Regulations on prospecting and exploration for polymetallic nodules in the Area. Adopted on 13 July 2000 (ISBA/6/A/18, annex, dated 4 October 2000), amended in 2013 (ISBA/19/C/17, annex, dated 22 July 2013) and further amended in 2014 (ISBA/20/A/9, annex, dated 24 July 2014).

Regulations on prospecting and exploration for polymetallic sulphides in the Area. Adopted on 7 May 2010 (ISBA/16/A/12/Rev.1, annex, dated 15 November 2010) and amended in 2014 (ISBA/20/A/10, annex, dated 24 July 2014).

Regulations on prospecting and exploration for cobalt-rich ferromanganese crusts in the Area. Adopted on 27 July 2012 (ISBA/18/A/11, annex, dated 22 October 2012).

### II. National legislation of member States

#### Belgium

Act introducing provisions regulating the matters covered by article 77 of the Constitution into the Act of 17 August 2013 on prospecting and exploration for and exploitation of resources of the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction, adopted on 30 July 2013.

Act on prospecting and exploration for and exploitation of resources of the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction, adopted on 17 August 2013.

#### Brazil

Note verbale dated 11 August 2017.

#### China

Mineral Resources Law of the People's Republic of China. Adopted at the fifteenth meeting of the Standing Committee of the Sixth National People's Congress, on 19 March 1986. Revised in accordance with the Decision of the Standing Committee of the National People's Congress on Revising the Mineral Resources Law of the People's Republic of China, adopted at the twenty-first meeting of the Standing Committee of the Eighth National People's Congress, on 29 August 1996.

Rules for Implementation of the Mineral Resources Law of the People's Republic of China. Promulgated by decree No. 152 of the State Council of the People's Republic of China on 26 March 1994. Effective as of the date of promulgation.

Marine Environmental Protection Law of the People's Republic of China. Adopted at the twenty-fourth meeting of the Standing Committee of the Fifth National People's Congress, on 23 August 1982. Effective as of 1 March 1983. Revised at the thirteenth meeting of the Standing Committee of the Ninth National People's Congress, on 25 December 1999, and further revised at the sixth meeting of the Standing Committee of the Twelfth National People's Congress, on 28 December 2013.

Administrative Regulation on the Prevention and Treatment of the Pollution and Damage to the Marine Environment by Marine Engineering Construction Projects. Adopted at the 148th executive meeting of the State Council, on 30 August 2006. Entered into force on 1 November 2006.

Law of the People's Republic of China on Exploration for and Exploitation of Resources in the Deep Seabed Area, adopted on 26 February 2016 and effective as from 1 May 2016.

Administrative regulations issued by the State Oceanic Administration on 25 April 2017 on licensing for exploration and exploitation activities in the Area, on 29 December 2017 on sample management and on 29 December 2017 on information management.

**Cook Islands**

Seabed Minerals Act, 2009.

Model Seabed Minerals Agreement of April 2011.

**Cuba**

Mining Law, entered into force on 23 January 1995.

Decree No. 222 of 19 September 1997.

**Czechia**

Act No. 158/2000 of 18 May 2000 on Prospecting and Exploration for and Exploitation of Mineral Resources from the Seabed beyond the Limits of National Jurisdiction.

**Dominican Republic**

Note No. 001348 dated 4 May 2016 from the Ministry of the Environment and Natural Resources.

Note No. EDR-MN/16-16 dated 21 July 2016 from the Embassy of the Dominican Republic in Jamaica.

**Fiji**

International Seabed Mineral Management Decree, 2013 (decree No. 21).

**France**

Note verbale dated 22 March 2013 from the Embassy of France in Jamaica.

Ordinance No. 2016-1687 of 8 December 2016 relating to the maritime areas under the sovereignty or jurisdiction of the Republic of France.

Note verbale dated 21 February 2017 from the Embassy of France in Jamaica.

**Georgia**

Note verbale dated 3 May 2017 from the Permanent Mission of Georgia to the United Nations.

**Germany**

Seabed Mining Act of 6 June 1995. Amended by article 74 of the Act of 8 December 2010.

**Guyana**

Maritime Zones Act, 2010 (Act No. 18 of 2010). Entered into force on 18 September 2010.

**India**

Offshore Areas Mineral (Development and Regulation) Act, 2002.

Order of 11 February 2010.

**Japan**

Act on Interim Measures for Deep Seabed Mining, 1982.

Mining Act. Adopted on 20 December 1950 and amended on 22 July 2011.

**Kiribati**

Seabed Minerals Bill, 2016.

**Mexico**

Update report submitted by the Secretariat of Environment and Natural Resources of Mexico, the Secretariat of Economy of Mexico and the Mexican Geological Service. Received on 5 June 2018.

Report on the laws, regulations and administrative measures of Mexico on underwater mining. Submitted by the Embassy of Mexico in Jamaica on 21 December 2011.

Guide for the presentation of environmental impact statements for the mining sector and analysis of gaps and omissions in the conservation of marine biodiversity in Mexican oceans, coasts and islands of the Ministry of the Environment and Natural Resources of Mexico. Submitted by the Embassy of Mexico in Jamaica on 21 December 2011.

General Law on Ecological Balance and the Protection of the Environment, 28 January 1988. Amended on 4 June 2012.

Regulations of the General Law on Ecological Balance and the Protection of the Environment on Environmental Impact Assessment, 30 May 2000. Amended on 26 April 2012.

Mining Law, 26 June 1992. Amended on 28 April 2005.

National environmental policy for the sustainable development of Mexico's oceans and coasts: strategies for their conservation and sustainable use (see A/61/372, annex).

**Montenegro**

Law on Spatial Planning and Construction of Structures. Adopted on 30 September 2017.

Law on the Confirmation of the Protocol on Integrated Coastal Zone Management in the Mediterranean, 17 November 2011.

Law of the Sea, 18 December 2007.

Law on the ratification of the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean, 9 October 2007.

**Nauru**

International Seabed Minerals Act, 2015.

**Netherlands**

Note verbale dated 26 March 2013 from the Permanent Mission of the Netherlands to the United Nations.

Note verbale dated 26 June 2017 from the Permanent Mission of the Netherlands to the United Nations.

**New Zealand**

United Nations Convention on the Law of the Sea Act, 1996.

Continental Shelf Act, 1964.

**Nigeria**

Nigerian Minerals and Mining Act, 2007.

Nigerian Minerals and Mining Regulations, 2011.

**Niue**

Maritime Zones Act, 2013.

**Oman**

Mining Law, promulgated by royal decree No. 27/2003.

Oil and Gas Law, promulgated by royal decree No. 8/2011.

Ministerial decree No. 77/2011 regulating mineral exploration (regulations of the Mining Law).

**Russian Federation**

Decree of the President No. 2099 of 22 November 1994 on the activities of Russian physical and legal entities related to the exploration and development of the mineral resources of the seabed outside the continental shelf.

Government Decree No. 410 of 25 April 1995 on the procedure of activities of Russian physical and legal entities related to the development of mineral resources of the seabed outside the continental shelf.

**Republic of Korea**

Note verbale dated 2 April 2013 from the Permanent Mission of the Republic of Korea transmitting a report on the status of legislation related to deep seabed activity by the Government of the Republic of Korea.

**Singapore**

Deep Seabed Mining Act, 2015.

**Tuvalu**

Tuvalu Seabed Minerals Act, 2014 (Act No. 14 of 2014).

**Tonga**

Tonga Seabed Minerals Act, 2014.

Note verbale dated 22 August 2016 from the Permanent Mission of Tonga to the United Nations.

**United Kingdom of Great Britain and Northern Ireland**

Deep Sea Mining (Temporary Provisions) Act, 1981, as amended by the Deep Sea Mining Act, 2014, which entered into force on 14 July 2014.

**Zambia**

Environmental Protection and Pollution Control Act, 1990 (No. 12 of 1990), as amended by the Environmental Protection and Pollution Control (Amendment) Act, 1999 (No. 12 of 1999) (Cap. 204 of the Law of Zambia).

## III. National legislation of observer States

**United States of America**

Deep Seabed Hard Mineral Resources Act, 1980. Adopted on 28 June 1980 and amended on 1 July 2000.

Deep Seabed Mining Regulations Affecting Pre-enactment Explorers, 20 November 1980.

Deep Seabed Mining Regulations for Exploration Licenses, 1980 (15 September 1981).

Deep Seabed Mining Regulations for Commercial Recovery Permits, 6 January 1989.

Guidelines for Obtaining Minerals other than Oil, Gas and Sulphur on the Outer Continental Shelf, report by the United States Department of the Interior, Minerals Management Service, December 1999 (Public Law 103-426, enacted on 31 October 1994).

## IV. Information provided by regional organizations

**Pacific Community**

Pacific-ACP States Regional Legislative and Regulatory Framework for Deep Sea Minerals Exploration and Exploitation, Secretariat of the Pacific Community, Suva, 2012.

Pacific-ACP States Regional Environmental Management Framework for Deep Sea Minerals Exploration and Exploitation, Pacific Community, Suva, 2016.

Pacific-ACP States Regional Financial Framework for Deep Sea Minerals Exploration and Exploitation, Pacific Community, Suva, 2016.

Pacific-ACP States Regional Scientific Research Guidelines for Deep Sea Minerals. Pacific Community, Suva, 2016.

## V. Legislation of reciprocating States[1]

France: Law on the Exploration and Exploitation of Mineral Resources in the Deep Seabed 1981 (Law No. 81-1135 of 23 December 1981).

Germany: Act on Interim Regulation of Deep Seabed Mining 1980, dated 16 August 1980 (English translation) (1981). *International Legal Materials*, XX, p. 393.

Italy: Regulations on the Exploration and Exploitation of the Mineral Resources of the Deep Seabed (Law No. 41 of 20 February 1985).

Japan: Law on Interim Measures for Deep Seabed Mining, 1982. *International Legal Materials*, 22 (1) (1983), pp. 102–122.

Union of Soviet Socialist Republics: [Edict on] Provisional Measures to Regulate the Activity of Soviet Enterprises relating to the Exploration and Exploitation of Mineral Resources of Seabed Areas beyond the Limits of the Continental Shelf, 17 April 1982.

United Kingdom: Deep Sea Mining (Temporary Provisions) Act, 1981, chapter 53. Effective as from 28 July 1981; Deep Sea Mining (Exploration Licences) (Applications) Regulations, 1982, No. 58. Effective as from 25 January 1982; Deep Sea Mining (Exploration Licences) Regulations, 1984, No. 1230. Effective as from 3 September 1984.

United States: Deep Seabed Hard Mineral Resources Act, 1980 (Public Law 96-283, 28 June 1980), as amended on 1 July 2000.

[1] See also ISBA/18/C/8, footnote 2.